



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/691.822	08/05/96	LEE	H 224955/P3334

CUSHMAN DARBY AND CUSHMAN
NINTH FLOOR EAST TOWER
1100 NEW YORK AVENUE NW
WASHINGTON DC 20005-3918

B5M1/0325

EXAMINER

CUNNINGHAM, T

ART UNIT

PAPER NUMBER

2504

DATE MAILED: 03/25/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory ActionApplication No.
08/691,822Applicant(s)
LeeExaminer
Terry D. CunninghamGroup Art Unit
2504

THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☒ expires five months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Feb 28, 1997 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☒ The proposed amendment(s):

- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☒ will not be entered because:
- ☒ they raise new issues that would require further consideration and/or search. (See note below).
 - ☐ they raise the issue of new matter. (See note below).
 - ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: Contrary to Applicant's remarks, the proposed changes to the claims provide a change in claim scope requiring further search and/or consideration.

- ☐ Applicant's response has overcome the following rejection(s):

- ☒ Newly proposed or amended claims 2 and 3 would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

- ☐ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:

- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: 2 and 3 (because the previous amendment would still be entered upon filing of Appeal)

Claims objected to: _____

Claims rejected: 1, 4, 5, 7, and 8

- ☐ The proposed drawing correction filed on _____ ☐ has ☐ has not been approved by the Examiner.

- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

- ☒ Other See attached.

Terry D. Cunningham
TERRY D. CUNNINGHAM
PRIMARY EXAMINER
ART UNIT 2504

Art Unit 2504

RESPONSE TO REQUEST TO WITHDRAWAL FINALITY OF REJECTION


Applicant argues that the finality of rejection is improper because "the proposed amendments in the application were substantially the same as those present earlier, but denied entry, in the parent application" (emphasis added). However, Examiner does not agree that the changes were "substantially the same". The amendment in the parent case required that the "oscillator" operates responsive to the "self-refresh mode" whereas the claims in the continuing case requires that the "oscillator" operates responsive to the "substrate voltage level" being "a desired level". Since the proposed changes in the claims provide a different scope than that provided in the parent case, then it is not seen that the same material was refused entry in the parent case. Further, the amendment in the continuing case adds an additional claim.

Thus, the finality of rejection is hereby maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Terry Cunningham at telephone number (703) 308-4872. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

The fax phone number for Art Unit 2504 is (703) 308-7722. Please note, any faxed paper clearly stating **DRAFT** or **PROPOSED AMENDMENT** at the top will be forwarded directly to the Examiner. All others will be treated as a formal response and acted upon accordingly.

TC
March 24, 1997


Terry D. Cunningham
Primary Examiner
Group Art Unit 2504